

and the impression the Chair had of your answers to those questions was quite the converse of what you are now saying.

Let me understand by a further illustration, if I may. If the legislature were to repeal the gambling statute so that there no statutory prohibition against gambling in Maryland, is it your intention that this constitutional provision would be self-operative so as to prohibit the operation of a lottery either by the State, a political subdivision, or a private organization or person?

DELEGATE SHERBOW: The constitutional prohibition would be effective and self-operating. If the legislature decides as it has that something like bingo is not within the definition of lottery, that definition still holds.

If the legislature decides to change its decision and say that bingo is prohibited, they do not need a constitutional prohibition to prohibit bingo. They may do it based on whatever they want to do about the gambling statutes.

THE CHAIRMAN: Do I understand then that the language of Committee Recommendation SF-2, as drawn and using the words "lotteries shall not be sanctioned" means as Professor Burdette suggested not merely that they may not be authorized but that they not be permitted?

DELEGATE SHERBOW: That's right.

THE CHAIRMAN: Does that answer your question, Delegate Burdette?

DELEGATE BURDETTE: Yes, Mr. Chairman, it answers it.

THE CHAIRMAN: Delegate Hostetter.

DELEGATE HOSTETTER: Chairman Sherbow, in checking the various sources for definitions of lottery and so forth, did you check the United States Post Office Department?

DELEGATE SHERBOW: Those are definitions that are legal because there we have some background in that because you run a lottery, you ought to know, you cannot send your newspaper through the mails. That's why an advertisement for a bingo game in the newspaper would be permitted to go through the mail. They will let a newspaper go through with an advertisement about winning an automobile at my gas station. But say in that ad that you have to buy five gallons of gas from me before I give you a chance to win and not only will the ad be unacceptable, but if

your paper takes it, you won't be able to send it through the mails because the post office will stop you.

THE CHAIRMAN: Delegate Hostetter.

DELEGATE HOSTETTER: That was my point because bingo has been declared illegal in Elkton, Maryland, we received a notice from the post office that if we mention it again, our mailers will not be mailed out, but from the federal government's standpoint, it is considered definitely a lottery.

DELEGATE SHERBOW: I cannot answer for the federal government, I can only answer for the State of Maryland. We have in the State of Maryland prohibition against lottery grants; we have here in Maryland on the subject of bingo, decisions by the attorneys general and without question they have been operated. Then we have the statute which was passed and under the terms of that statute the manner and method of operation of bingo has been set out.

THE CHAIRMAN: Delegate Scanlan.

DELEGATE SCANLAN: Delegate Sherbow, I am a little perplexed. Earlier you indicated in response to a question that I put to you that except for the expansion of the constitutional prohibition to the political subdivisions, basically the prohibition proposed by your Committee was the same as the one now in the present Constitution which would bar grants of a lottery, that is a lottery conducted by the State or a lottery conducted for the State under the auspices of a private group.

Then in response to questions put to you by me and by Delegate Gleason, you indicated that you thought that bingo did not fall within the definition of a lottery.

Now, I understand that you said in response to a question by Professor Burdette that the language "shall not be sanctioned" means not permitted at all. Therefore, if a court should decide that bingo is a lottery, under the language proposed by your Committee that would be illegal.

DELEGATE SHERBOW: All I can say is that up until now all our evidence indicates that bingo is not a lottery. All the law in Maryland indicates that bingo is not a lottery. If the Court of Appeals should change it and add bingo to include it within the meaning of lottery, much as I believe such a decision will not take place, then, of course, you will have to obey the law.

THE CHAIRMAN: Delegate Scanlan.